



# EXAMINING THE POSSIBILITY OF TRANSPLANTING POLITICAL PARTY FINANCIAL ASSISTANCES VARIATION TO INDONESIAN POLITICAL PARTIES (COMPARATIVE STUDIES IN COLOMBIA, BRAZIL, SOUTH KOREA, AND TURKEY)

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## ABSTRACT

There are variations in political party Financial Assistances in various countries with various implications, both positive and negative. Besides, there are problems with political parties in Indonesia which in literatures are suspected to be related to the regulation of political party Financial Assistances. This research focuses on answering two research problems. First, what are the implications for the regulation of various models of Financial Assistances for political parties in Colombia, Brazil, South Korea, and Turkey referring to the aspects of free and fair elections, democratic politics, and corruption index? Second, how is the possibility of legal transplantation of political party Financial Assistances in order to solve the problems of political parties in Indonesia? This research is socio-legal research that analyzes secondary data. The results of this study show two results. First, it shows that the law in four countries have different implications, which there are three notes namely that i) countries that are quite good in the aspect of free and fair elections are South Korea, Brazil, and Colombia, ii) the four countries are not good enough in the aspect of democratic politics, iii) countries that are quite good in the aspect of corruption index is South Korea. Second, it shows that there is the possibility of legal transplantation which there are three notes: i) there is a constant and dynamic variable regulation of political party Financial Assistances in Indonesia, ii) the problem of political party Financial Assistances in Indonesia is in the democratic politics and corruption index which means need to transplant several aspects, iii) there is a possibility of transplanting variations in political party Financial Assistances as long as certain conditions are fulfilled.

**Keywords:** Political Party; Financial Assistances; Legal Transplantation

## 1. INTRODUCTION

The root of the problem of corruption in Indonesia carried out by political party (*partai politik 'Parpol'*) cadres in various literature is stated to be not just a cultural problem of the cadres' lack of idealism, but rather a systemic problem.<sup>1</sup> In its implementation, political parties have various needs that must be fulfilled with an adequate budget.<sup>2</sup> Referring to research by the Election Association for Democracy (*Perkumpulan Pemilu untuk Demokrasi 'Perludem'*) together with USA ID, it shows that the motive for corruption carried out by executive and legislative officials in Indonesia is carried out solely because they are forced to raise funds for very large political party operations as in the following table.<sup>3</sup>

1 Didik Supriyanto and Lia Wulandari, *Bantuan Keuangan Partai Politik Metode Penetapan Besaran, Transparansi, Dan Akuntabilitas Pengelolaan* (Kota Jakarta: Yayasan Perludem, 2012).

2 Sukma, Suci Monawati. "Problematika Kenaikan Bantuan Keuangan Partai Politik Yang Bersumber Dari Anggaran Pendapatan Dan Belanja Negara (APBN)." *Jurnal Program Magister Hukum Fakultas Hukum Universitas Indonesia* 1, no. 3 (2021): 1463–72.

3 Supriyanto and Wulandari.

**Table 1. Prediction of Operational Needs for Middle-Class Political Parties Per Year**

Income	Amount	Spending	Amount
Membership Fees	IDR 0	Secretariat Operations	IDR 1.4 billion
Individual Member Contributions	IDR 0.6 billion	Organizational Consolidation	IDR 8.2 billion
Non-Member Individual Contributions	IDR (unknown)	Political Education and Cadre Generation	IDR 33.7 billion
Company Contributions	IDR (unknown)	Public Show	IDR 6.7 billion
State Subsidies	IDR 0.677 billion	Business trip	IDR 1.2 billion
Amount (known)	IDR 1.2 billion	Amount	IDR 51.2 billion

*Source: Election Association for Democracy (Perludem) with USA-ID, 2012.*

Veri Junaidi et al's research provides an overview of the predicted funding needs of middle-class political parties such as PAN, PKS, and PPP reaching 51.2 billion rupiah per year.<sup>4</sup> What is quite interesting is that the income and expenditure made by the political parties above are not comparable, namely there is around 50 billion rupiah which is not clear where it came from. There are at least several possibilities, but one of them comes from candidates or entrepreneurs.<sup>5</sup> The large amount of funds spent by political party should ideally be balanced by the large income of political party funds. However, what happens to compensate for this is that political parties are forced to collaborate with entrepreneurs.

Responding to this, the Corruption Eradication Commission (Komisi Pemberantasan Korupsi 'KPK') in 2019 stated that to maintain the independence of political parties, a mechanism for assistance with political party operational costs from the APBN is needed.<sup>6</sup> The hope is that political parties do not need to depend on entrepreneurs to carry out corrupt practices both during the legislative period and during the running of the government. This provision of assistance funds has also been carried out in other countries with different mechanisms.

Status quo provisions regarding this matter are regulated in Law Number 2 of 2008 (Law 2/2008) as well as Government Regulation Number 5 of 2009 concerning Financial Assistance to Political Parties (PP 5/2009) and its amendments (PP 83/2012; PP 1/2018). The main points of regulation of Political Party Financial Assistances (*bantuan keuangan parpol 'banparpol'*) which are regulated in various regulations include the source of funds, the amount of funds, the method of calculating funds, and the use of funds. One of the concerns regarding current research is that the numbers are too small.<sup>7</sup> According to Didik and Lia, the arrangement is far from ideal because they only provide Rp. 1,000 instead of Rp. 40,807 for the operational needs of political parties, so the discourse of increasing Political Party Financial Assistances rates refers to the small percentage of assistance in the following table.<sup>8</sup>

4 Veri Junaidi et al., *Anomali Keuangan Partai Politik : Pengaturan Dan Praktek* (Jakarta: Yayasan Perludem, 2011).

5 Junaidi et al.

6 Dhika Kusuma Winata, "KPK Usulkan Dana Bantuan Parpol Rp. 8.461 per Suara," *Media Indonesia*, 2019.

7 Lestari, Nicken Paramega, Djohan Djohermansyah, and Ismail Nurdin. "Implementasi Kebijakan Penggunaan Bantuan Keuangan Partai Politik Dalam Pelaksanaan Pendidikan Politik Di Dewan Pimpinan Pusat Partai Demokrat." *Jurnal Pendidikan Konseling* 4, no. 6 (2022): 4640–4465.

8 Supriyanto and Wulandari, *Bantuan Keuangan Partai Politik Metode Penetapan Besaran, Transparansi, Dan Akuntabilitas Pengelolaan*, 33.

**Table 2. Percentage of Political Party Financial Assistances in the APBN to Political Party Operational Needs Per Year.**

Political Parties	Election Votes 2009	Average Votes / Year	Amount of Requirements / Year	Amount of Assistance / Year	Assistance / Needs Ratio
Partai Demokrat	21.655.295	4.331.059	176.737.524.613	2.338.860	1,32%
Partai Golkar	14.576.388	2.915.278	118.963.733.023	1.574.249.904	1,32%
PDIP	15.031.497	3.006.299	122.678.059.616	1.623.401.676	1,32%
PKS	8.204.946	1.640.989	66.963.846.284	886.134.168	1,32%
PAN	6.237.462	1.254.692	51.200.232.767	677.533.896	1,32%
PPP	5.544.332	1.108.866	45.249.511.185	598.787.856	1,32%
PKB	5.146.302	1.029.260	42.0001.029.143	555.800.616	1,32%
Partai Gerindra	4.642.795	928.559	37.891.797.113	501.421.860	1,32%
Partai Hanura	3.925.620	785.124	32.038.555.068	423.966.960	1,32%
Total	85.000.637	17.000.127	693.724.198.812	9.180.068.796	

*Source: Election Association for Democracy (Perludem) with USA-ID, 2012.*

The further question that arises is whether the solution is only about increasing Political Party Financial Assistances and not other variables that are important to pay attention to. This question is based on the empirical reality in several countries that the regulation of political party Financial Assistances is not only related to the size of political party Financial Assistances, but also the source of funding, allocation of funding, accountability, and sanctions mechanisms, criteria for political parties receiving funding, and others.<sup>9</sup> Apart from the many variables that need to be taken into account, there is actually a discourse that increasing political parties on the one hand is considered to enable the prevention of corruption, but on the other hand, has a negative impact on fair opportunities for new political parties and the potential for cartel relations between the government and parliament.<sup>10</sup>

Regarding the various variations in Political Party Financial Assistances in several countries and the discourse regarding their implications, it was found that there were 4 variables which IFES assessed as related to the central role of political finance, namely the aspects of free and fair elections, effective governance, democratic politics, and corruption index.<sup>11</sup> Regarding these 4 variables, the author is of the view that the aspects of democratic politics and effective governance have a large intersection regarding their scope so that the author considers them to be just one aspect. These two aspects are basically related to the relationship between 3 (three) actors, namely political parties, the state (executive-legislative elements), and society in developing a democratic system.

Regulatory assessments of the four variables are important to carry out for countries with criteria similar to Indonesia, namely using a presidential system, a multiparty system, and the existence of a parliamentary threshold. The limitation on the presidential system is intended so that the author can equate state conditions regarding the relationship between the president and parliament, especially regarding the variable democratic

9 Sri Yanuarti, “State Funding to Political Parties: Experience in Selected Parties,” *Jurnal Penelitian Politik* 16, no. 2 (2019): 213–18.

10 Marcus Mietzner, “Dysfunction by Design: Political Finance and Corruption in Indonesia,” *Critical Asian Studies* 47, no. 4 (2015): 605–7, <https://doi.org/10.1080/14672715.2015.1079991>.

11 Magnus Öhman, Hani Zainulbha, Jack Santucci, and Marcin Walecki, *Political Finance Regulation: The Global Experience* (Washington D.C.: IFES, 2009) 13-14.

politics and variations in Political Party Financial Assistances. Restrictions on multiparty systems and the existence of a parliamentary threshold are carried out so that the author can equate the relationship between free and fair elections in the context of opportunities for new parties in countries related to Indonesia. This comparative research framework was chosen referring to the author's intention to also consider the possibility of implementing variations in Political Party Financial Assistances as a solution to the problems of political parties in Indonesia which have been widely studied in various literature.

This research is not the only research that discusses political party Financial Assistances comparisons because there are around 15 national and international journal articles that have the same general theme. Even so, each article has a different scope and analysis tool with the focus of the research to be carried out by the author, namely the existence of clear variables and analysis of the possibility of application and the context of its application. In this case, for example, there is an article "State Funding to Political Parties: Experiences of Several Countries" by Sri Yanuarti in the Political Research Journal which has differences regarding country references, variables being compared, and the absence of tracking the possibility of implementation. Next, the article "Dysfunction by Design: Political Finance and Corruption in Indonesia" by Marcus Mietzner in Critical Asian Studies which only focuses on analyzing the regulation of Political Party Financial Assistances to corruption in Indonesia.

Thus, this research seeks to complete the discourse and explore recommendations for improving political party Financial Assistances problems by formulating two problem formulations as follows. First, what are the implications of regulating variations in Political Party Financial Assistances models in Colombia, Brazil, South Korea, and Turkey referring to aspects of free and fair elections, democratic politics, and corruption index? Second, what is the possibility of transplanting alternative laws for Political Party Financial Assistances in order to resolve the problem of Political Party Financial Assistances in Indonesia? Referring to the formulation of this problem, the first discussion focuses on analyzing political party Financial Assistances arrangements in four countries and mapping the implications for three indicators. In the second discussion, the author focuses on analyzing the possibility of transplanting political party Financial Assistances arrangements to resolve political party Financial Assistances problems in Indonesia.

## **2. METHOD**

This research is socio-legal which is an umbrella for two types of research, including i) normative juridical research on statutory regulations and secondary legal materials related to political party Financial Assistances arrangements and the possibility of implementation using the statute approach and comparative approach and ii) political science research on discourse in academic literature related to regulatory implications for free and fair elections, democratic politics, and corruption index in each country. The author will analyze the data that has been collected using qualitative analysis techniques. This is used by classifying, comparing, and linking each variation of political party Financial Assistances provision arrangements in Indonesia and the four countries. Sequentially, the author will begin an analysis of the laws and regulations in Indonesia regarding political party Financial Assistances. Next, the author will compare the aspects obtained with regulations in other countries and trace the regulatory implications of various scientific articles. Then, the author will test the possibility of transplanting variations of political party Financial Assistances in other countries to the problems of political parties in Indonesia.

## **3. FINDINGS AND DISCUSSION**

In this discussion, there are two main discussions. First, the implications of regulating Political Party Financial Assistances in various countries. Next, the second discussion explains the possibility of applying best practices to resolve the problems of political party Financial Assistances in Indonesia.

### **3.1 Implications of Political Party Financial Assistances Arrangements in Several Countries**

The comparative analysis in this section will focus on analyzing the regulations regarding political party Financial Assistances and their implications in Colombia, Brazil, South Korea, and Turkey. In each country, the discussion will begin with a comparison that is carried out consistently on the same variables, namely the form

of aid, the amount of aid, the characteristics of the party receiving aid, the allocation of aid, the mechanism for monitoring or examining the use of aid, the mechanism for reporting assistance use, reporting periodization, transparency in the use of assistance to the public, sanctions provisions. Next, the author presents an analysis of the implications of these regulations on three aspects, namely i) free and fair elections, ii) democratic politics, and iii) corruption index. Referring to the analysis of various literature that the author has reviewed, the scope of free and fair elections includes the opportunity for new political parties to contest while remaining proportionally fair to existing political parties in parliament, while democratic politics includes the connection between political parties and society and the dependence of political parties and the state, Next, the corruption index includes an increase or decrease in the corruption index.

### 3.1.1 Colombia

#### 3.1.1.1 Political Party Financial Assistances Arrangements in Colombia

Assistance to political parties in Colombia, as is commonly done in various countries, consists of two forms, namely i) direct subsidies and ii) indirect subsidies. The amount of direct assistance in Colombia is determined democratically by political parties and movements or organizations that are legal entities with the obligation to provide public information regarding decisions taken in accordance with regulations established by the National Electoral Council.<sup>12</sup> Referring to the dynamics of financing in Colombia, political parties have increased from around US\$ 7 million in 2004 to US\$ 12 million in 2016, while the number of recipients has fallen from 72 parties in 2004 to 13 parties in 2016.<sup>13</sup> However, the main source of Financial Assistances for political parties is not these direct subsidies, but rather with the construction of “reimbursement of election costs” (*pagos por reposición*). This reimbursement is paid to political parties for every valid vote each received in the previous election. These reimbursements amounted to approximately US\$ 26 million in 2012, US\$ 28 million in 2014, and US\$ 21 million in 2016.<sup>14</sup>

Data showed that Colombian political parties depend more on Financial Assistances than private donations. This is reflected for example that around half of the operational costs of the main left-wing party (*Polo Democrático*) and the main right-wing party (*Centro Democrático*) in 2015 were paid with public funds.<sup>15</sup> According to Londoño, ongoing direct subsidies and reimbursements (so-called *pagos por reposición*) in 2012, Financial Assistances amounted to 92% of the total income of the Liberal Party, 73% of the total income of the Conservative Party, 85% of the total income of the Partido de la U, 76% of the Green Party’s total income, and 76% of Polo Democrático’s total income.<sup>16</sup> Indirect assistance is provided in the form of regular access to media subsidies for political parties<sup>17</sup> as well as income tax exemptions.<sup>18</sup> Donations to political parties can be deducted from taxable income up to 30%. Bank accounts of political organizations are exempt from financial

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12 Article 18 Colombian Law Number 1475 Year 2011 regarding The Rules on Organizations, Political Parties Operational, Political Party Movements

13 Juan Fernando Londoño, *Estudio Sobre Financiamiento Político En Colombia* (Bogota: Centro de Análisis y Asuntos Públicos SAS., 2018), 72.

14 Londoño, 90–94.

15 Londoño, 75.

16 Londoño, 75.

17 Article 111 of the Colombian Constitution “Political parties and movements that are legal entities have the right to use the means communications that utilize the electromagnetic spectrum at all times in accordance with the law. This too will set out the cases and ways registered parties, political movements and candidates will have access to the media” Article 25 of Law Number 130 of 1994 concerning Funding for Political Parties and Movements and Election Campaigns and Other Provisions, “Political parties and movements that are legal entities have the right of access freely to the State's social media in the following way: 1. Permanently, for political outreach programs institutional... For the distribution of 60% of the space referred to in number 1o of this article, party representation or movements in the DPR will be taken into account. Payment for use of space will be charged to the General Budget Countries, to which necessary items will be allocated annually, will become part of the Fund as intended in Article 12 of this law.

18 Article 23 of Colombian Law Number 1819 of 2016 concerning Adopted Structural Tax Reform, Mechanisms to Combat Tax Evasion and Evasion Strengthened, and Other Provisions Determined, “(...) Political parties or movements approved by the National Electoral Council are not taxpayers income (...)

transaction taxes.<sup>19</sup>

The criteria for political parties that are recipients of assistance are related to the following criteria:<sup>20</sup> 10% equal due to registration as a political party, 15% equal among all political organizations that obtained 3% or more of the vote in elections to the Senate or House of Representatives, 40% among all political parties and movement with proportionality of the number of seats in Congress obtained in the last elections, 10% among all political organizations with proportionality of the number of seats in the Departmental Council, 5% among all political organizations in proportion with the number of women elected, 5% among all political organizations proportional to the number of young people selected.

State funding should be used to finance activities and in particular for the following purposes:<sup>21</sup> the operation of its regional, local, and sectoral structures; inclusiveness of women, youth, and ethnic minorities in the political process; operation of study, research and training centers and foundations; provide support and assistance to their constituents; political and election education and training; for the dissemination of its political programs and proposals; implementation of the internal democratic mechanisms foreseen in its laws. Regarding the assistance provided, the National Election Council receives financial reports from political parties/ legislative candidates, examines financial reports and investigates violations, carries out investigations, and also imposes sanctions.<sup>22</sup> In the first four (4) months of each year, political parties and movements with legal status will submit to the National Electoral Council a declaration regarding assets as well as income and expenditure using the regulated format.<sup>23</sup> In this case, financial report information from political parties must be announced to the public.<sup>24</sup> For violations, sanctions depend on the seriousness and whether the violation is repeated or not in the event that there is no preventative action by the political party directors.<sup>25</sup> For example, forms of sanctions include suspension or confiscation of state finances and/or space provided in communication media, temporary dismissal from management positions for a maximum of 3 (three) months, as well as written and public warnings.<sup>26</sup>

### ***3.1.1.2 Regulatory Implications for Three Aspects***

***First***, Free and Fair Election. Castañeda in his analysis assessed that the dominant political parties succeeded in making arrangements to increase their income and suppress the growth of small parties.<sup>27</sup> This is in line with Katz and Mair's analysis that existing arrangements encourage the creation of political parties that reform political finance regulations to prevent new parties from entering the electoral arena.<sup>28</sup> In

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19 Article 16 The Law Number 176 Year 2011.

20 Article 109 of the Colombian Constitution. "The state will contribute to political financing and Party elections and Political Movements that are legal entities, in accordance with the law..."; Article 17 of Law Number 1475 of 2011, "The state will contribute to the financing of the permanent operation of political parties and movements with status law, through the National Fund for Political Financing"; Article 17 of Law Number 1475 of 2011 concerning Rules for the Organization and Operation of Political Parties and Movements, Election Processes Adopted and Other Provisions

21 Article 18 of Colombian Law Number 1475 of 2011 concerning Rules for Organizing and Operation of Political Parties and Movements, Election Processes Adopted and Provisions Other.

22 Article 39 of Colombian Law Number 130 of 1994 concerning Funding for Political Parties and Movements and Election Campaigns and Other Provisions.

23 Article 19 of Colombian Law Number 1475 of 2011 concerning Rules for Organizing and Operation of Political Parties and Movements, Election Processes Adopted and Provisions Other.

24 Article 18 of Colombian Law Number 130 of 1994 concerning Funding of Political Parties and Movements and Election Campaign and Other Provisions

25 Article 12 of Colombian Law Number 1475 of 2011 concerning Rules for Organizing and Operation of Political Parties and Movements, Election Processes Adopted and Provisions Other

26 Article 12 of Colombian Law Number 1475 of 2011 concerning Rules for Organizing and Operation of Political Parties and Movements, Election Processes Adopted and Provisions Other.

27 Néstor Castañeda, "Electoral Volatility and Political Finance Regulation in Colombia," *Colombia Internacional*, no. 95 (2018): 20, <https://doi.org/10.7440/colombiaint95.2018.01>.

28 Richard Katz and Peter Mair, "The Cartel Party Thesis: A Restatement," *Perspectives on Politics* 7, no. 4 (2009): 753–66.

addition, Castaneda believes that the allocation of subsidies and free airtime in proportion to previous election performance benefits dominant political parties and deters new entrants and small parties.<sup>29</sup> In this aspect, the author does not agree with the analysis, considering that this significantly deviates the freedom and fairness of elections. This refers to the distribution which is in line with the principle of proportionality, for example regulating registered political parties directly receiving a 10% distribution, while the subsidies threshold for the allocation of the other 90% is from 3% of the Senate/House of Representatives votes, 40% of Congress seats, 10% of House seats. Department. Even so, the author still notes that the increasing size of budget allocations as mentioned in the previous sub-discussion still has an impact on the increasingly unequal resources of new political parties in subsequent contestations.

**Second,** Democratic Politics. According to Katz and Mair, this aspect shows that political parties in Colombia have an increasingly weak relationship with society and a relationship that is too dependent on the state, like the relationship in Western Europe.<sup>30</sup> This is related to Castaneda's opinion that their membership level is very low and the political parties' capacity to mobilize society is low.<sup>31</sup> As a consequence, political parties depend on corporate donations and state assistance, so that politicians are less responsive to the needs of citizens and more responsive to special interest groups and bureaucratic networks.<sup>32</sup> Albaracín et al assess that Colombian politicians have low returns to remaining loyal to political parties, while political parties have less organizational capacity and they are less attractive or meaningful to voters.<sup>33</sup> In addition, given the lack of a program agenda, clientelistic ties between voters and politicians have become very dominant.<sup>34</sup> According to the author, this empirical note is closely related to funding sources in Colombia.

**Third, the** Corruption Index. No specific notes or analyses were found regarding the definition of corruption in the narrow sense (criminal act). However, referring to the author's analysis of the dynamics of the corruption perception index with the increase in Political Party Financial Assistances, there has been stagnation in the corruption perception index since the year the provisions were implemented in 1995, namely a score range of around 36-39.

### 3.1.2 Brazil

#### 3.1.2.1 Political Party Financial Assistances Arrangements in Brazil

Political party assistance in Brazil is also divided into two forms, namely direct financial assistance and indirect assistance. Political parties receive public funding for their regular activities through "special financial assistance funds" designated by Congress for political parties.<sup>35</sup> Party funds are distributed equally among 5% of registered political parties and 95% of funds are allocated in proportion to the votes obtained in the previous election.<sup>36</sup>

In 1994, the amount of Political Party Financial Assistances was approximately 729 thousand realists (around US\$ 222 thousand) among the sixteen existing parties.<sup>37</sup> A year later, the number was raised to more than 2.2 million realis (around US\$ 700 thousand).<sup>38</sup> About ten years later, in 2006, it reached more than

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29 Castañeda, "Electoral Volatility and Political Finance Regulation in Colombia," 13.

30 Katz and Mair, "The Cartel Party Thesis: A Restatement."

31 Castañeda, "Electoral Volatility and Political Finance Regulation in Colombia," 13.

32 Castañeda, 14.

33 Albarracín, "Deinstitutionalization Without Collapse: Colombia's Party System," in *Party Systems in Latin America: Institutionalization, Decay, and Collapse*, ed. Scott Mainwaring (Cambridge: Cambridge University Press, 2018).

34 Albarracín.

35 Brazilian Election Law Number 9096 (Amendment) regarding Political Party

36 Article 41-A, "Five percent (5%) of the total amount of Party Funds will be separated for distribution, in equal parts equally, to all parties who have registered their laws at the High Electoral Court, and ninety-five percent (95%) of the total amount of Party Funds will be distributed to them in proportion to their votes obtained in the last general elections for the Chamber of Deputies" Brazilian Law No. 9,096 of the year 1995 jo. Brazilian Law Number 13,487 of 2017

37 Ezequiel Martins Paz, "Party Funding in Brazil Following The Re-Democratization: A Brief Critical Overview," in *Handbook of Political Party Funding* (Northampton: Edward Elgar Publishing Limited, 2018), 391, <https://doi.org/10.4337/978178536797>.

38 Paz, 391.

142.7 million reais (approximately US\$ 43.5 million). After the ‘Mensalão’ tragedy, parliament continued to increase political party allocations.<sup>39</sup> In 2014, at the end of Dilma Rousseff’s first term (2011–2014), political parties totaled more than 371.9 million reais (approximately US\$ 113.3 million).<sup>40</sup> The decision to increase assistance despite the first signs of economic crisis was perhaps the first desperate reaction to the impact of the ‘Car Wash’ operation that began in March 2014.<sup>41</sup> To ‘plug the holes’ and eliminate corruption, Congress decided to double the financial allocation to more than 867.5 million reais (approximately US\$ 264.4 million) in 2015.<sup>42</sup> This amount provided to each of the 35 registered parties more than 1.2 million reais (approximately US\$ 377 thousand) in the same year as a share the same at the 5 percent quota, plus a possible proportional share of the remaining 95 percent quota.<sup>43</sup> Apart from receiving funds from the state, political parties in Brazil also have the right to receive donations from individuals and legal entities.<sup>44</sup> Donations made by legal entities to political parties are not permitted in terms of publicity in any form originating from i) foreign entities or governments; ii) public authorities or bodies; iii) self-regulated public bodies, public companies or utilities, government-controlled companies, and foundations.<sup>45</sup>

Apart from cash, state funding for political parties in Brazil takes the form of<sup>46</sup> i) the right to free airtime on radio and television stations during non-election years to disseminate party-related information, as stipulated in local law, consisting of reporting implementation of political party programs, events, and related activities; ii) express the party’s views on political and community issues; iii) promote and spread women’s participation in politics.

For the right to distribute political party funds, political parties must obtain at least 3% of the valid votes in the previous election which must be spread over at least one-third of the states of the federation, have at least 2% of the valid votes in each of these states, and the parties must have elected a minimum of 15 federal representation spread across at least one-third of the federal states.<sup>47</sup> Proceeds from the Party Fund shall be used for:<sup>48</sup> the maintenance of offices and services provided by the party, including payment of staff in any capacity, observing, for the latter, a maximum limit of 50% (fifty percent) of the total amount received; doctrinal and political advertising; recruitment and election campaigns; creation and maintenance or education/indoctrination of policies and research institutions or foundations; creation and maintenance of programs for the promotion and socialization of women’s political participation with a percentage determined by the national party leadership, taking into account at least 5% (five percent) of the total number.

Each year, political parties are required to submit a financial report for the last fiscal year to the Electoral Courts no later than 30th April of the following year.<sup>49</sup> In this case, the Election Court will supervise the party’s bookkeeping and accountability.<sup>50</sup> To carry out the necessary checks to fulfill the provisions, the Election Court may request technical assistance from the High Court Examiner or District Court Examiner as long as necessary.<sup>51</sup> Negligence regarding the provision of accounts or identified irregularities in any financial transactions carried out by political parties and candidates may result in different sanctions, ranging from the imposition of fines and suspension of transfers of party funds to cancellation of party registration in elections.<sup>52</sup>

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39 Paz, 391.

40 Paz, 391.

41 Paz, 391.

42 Paz, 391.

43 Paz, 391.

44 Yanuarti, “State Funding to Political Parties: Experience in Selected Parties,” 225.

45 Yanuarti, 225.

46 Yanuarti, 224.; Article 48 of Brazilian Law Number 9,096 of 1995 concerning Political Parties; Article 3 Brazilian Law Number 13,487 of 2017 concerning Amendments to Law Number 9,504, Law Number 9,096 To Institute a Special Campaign Financing Fund (FEFC) and Suppress Propaganda Production on Radio and Television, Official Federal Gazette.

47 Article 16-D of the Brazilian Constitution; Brazilian Law Number 13.165 of 2015

48 Article 44 of the Brazilian Law on Political Parties Number 9,096 of 1995

49 Articles 32 and 33 of the Brazilian Law on Political Parties Number 9,096 of 1995.

50 Article 34 of the Brazilian Law on Political Parties Number 9,096 of 1995.

51 Article 34 of the Brazilian Law on Political Parties Number 9,096 of 1995.

52 Article 35, Article 36, Article 37 of Brazilian Law Number 9,096 of 1995 concerning Political Parties



Political party leaders and committees, including treasurers, may be subject to civil and criminal liability for any irregularities or errors they may commit.<sup>53</sup>

### **3.1.2.2 Regulatory Implications for Three Aspects**

**First**, Free and Fair Election. Referring to Pereira’s analysis, in 2021, only 23 of the 36 parties were eligible to receive funding sources due to clause requirements that prevent them from registering.<sup>54</sup> Of the more than 900 million funds allocated to parties, around 350 million was allocated to the five highest parties according to the proportionality of their achievements in the elections.<sup>55</sup> According to the author, the condition of having so many parties allows party allocation to be less extreme, so that the distribution of subsidies is not so extreme either, in the end, it is still quite possible for new parties to exist. The existence of 26 parties receiving funding shows that there are no serious obstacles in achieving the subsidies threshold provisions.

**Second**, Democratic Politics. In line with Cervi’s analysis, the author considers that this egalitarian distribution of 5 percent assistance could encourage divisions between parties and society and the emergence of parties that have no social roots.<sup>56</sup> In this case, after the re-democratization process, there was a ‘flood’ of parties which showed an inability to provide public service goals as stated in the constitution.<sup>57</sup> The data that the author was able to find in 2017, for example, is that no less than 35 parties are currently officially registered, while 27 others are awaiting registration.

**Third**, Corruption Index. The increase in assistance in Brazil on paper did not prevent the scandals mentioned above. In these various cases, even though there has been an increase in aid, the empirical cases as mentioned by the author above show that there are still major scandals in Brazilian history. Based on this reality, it cannot be immediately concluded that increasing assistance actually increases the potential for corruption or has no effect at all. In this case, it is in line with Paz’s analysis that this is also related to changes in extreme provisions that prohibit private contributions to political parties.<sup>58</sup> The most worrying consequence of such a drastic change in law is the danger that the vacuum left by the absence of private organizational donors will be filled by organized crime.<sup>59</sup> Although the author does not find a clear link between assistance regulation and corruption, the author notes that extreme restrictions on private contributions, as Paz argues, actually allow for the possibility of contributions from organized crime.

### **3.1.3 South Korea**

#### **3.1.3.1 Political Party Financial Assistances Arrangements in South Korea.**

Similar to Colombia and Brazil, there are direct and indirect subsidies in South Korea. Determining direct subsidies in South Korea is carried out by multiplying the unit price for the use of subsidies or political party Financial Assistances by the total number of voters in the election of members of the National Assembly, which at the end of the term of office of the “National Assembly” will be budgeted for.<sup>60</sup> On the other hand, the indirect subsidies provided are related to policy debates facilitated by the “Central Election Debate Broadcasting Committee” at least once a month to enable political parties to realize their platforms and policies.<sup>61</sup>

Since 2001-2014, in more than ten years, the percentage of state subsidies in political party finances has increased from 27% to 41% and the percentage of member fees in party finances has increased from

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53 Article 35, Article 36, Article 37 of Brazilian Law Number 9,096 of 1995 concerning Political Parties

54 Carolina Canhassi Pereira, “O Financiamento Dos Partidos Políticos No Brasil.” (Universidade Católica De São Paulo, 2022), 110.

55 Pereira, 110.

56 Emerson Urizzi Cervi, “Financiamento de Campanhas e Desempenho Eleitoral No Brasil: Análise Das Contribuições de Pessoas Físicas, Jurídicas e Partidos Políticos Às Eleições de 2008 Nas Capitais de Estado,” *Revista Brasileira de Ciência Política* 4 (2010): 135.

57 Paz, “Party Funding in Brazil Following The Re-Democratization: A Brief Critical Overview,” 386.

58 Paz, 387.

59 Paz, 387.

60 Article 25 of South Korean Law Number 14838 of 2021 concerning State Funding.

61 Article 39 of South Korean Law Number 17071 of 2020 concerning Political Parties; Article 82-3 of the Law South Korea Number 17980 of 2021 concerning Election of Public Officials.

21% to 37%.<sup>62</sup> In this case, the biggest change occurred in the proportion of member fees and community donations which fell drastically from 42 percent to 11 percent.<sup>63</sup> State funding subsidies for political parties are distributed based on the following principles: 50% of the total subsidies will be distributed evenly and given to political parties that form a negotiating group in the National Assembly because they have 20 or more seats in the National Assembly.<sup>64</sup> Political parties holding 5-19 seats in the National Assembly are provided with 5% of the subsidies, while political parties holding less than 5 seats in the National Assembly receive 2% or more. Meanwhile, in local elections, political parties will be given 2% of the subsidies.<sup>65</sup> Of the remaining subsidies, 50% will be distributed to political parties according to the ratio of seats to total seats in the National Assembly at the time the subsidies distribution is carried out, and the other 50% will be given according to the ratio of votes obtained in the previous National Assembly elections.<sup>66</sup> Those who qualify as recipients of indirect subsidies include 1. Political parties consisting of five or more members of the National Assembly; 2. Political parties that have obtained 3/100 votes or more of the total number of valid ballot papers nationally in the immediately previous presidential election, proportional representation election for members of the National Assembly, or election for City Council members.<sup>67</sup>

Subsidies are only used to cover the costs required to run a political party:<sup>68</sup> 1. Labor costs; 2. Costs of office supplies and consumables; 3. Costs for opening and operating an office; 4. Fees for public utility costs; 5. Costs for developing policies; 6. Training and education costs for party members; 7. Costs for party activities; 8. Public Relations Costs; 9. Election costs. Each political party that receives regular subsidies must use at least 30 percent of the regular subsidies for its policy development institutions, distribute and pay at least 10 percent of it to party branch offices in cities, and use at least 10 percent of it for women's political development.

Any person who is dissatisfied with the status of existing property ownership, details of income, and expenditure of political funds or attached documents is reported to the competent election commission.<sup>69</sup> Basically, political parties are obliged to maintain bookkeeping and records in matters relating to the receipt and expenditure of funds each year.<sup>70</sup> Regarding this report, the Commission is obliged to make the report available to the public.<sup>71</sup> Regarding the obligations and prohibitions that are regulated, they include prison sanctions for recipients and contributors of illegal political funds as well as a ban on holding office for ten years in the event of a criminal sentence.<sup>72</sup>

### **3.1.3.2 Regulatory Implications for Three Aspects.**

*First*, Free and Fair Election. The author did not find negative notes from various literature regarding election opportunities due to the size or method of distribution. In this case, the author assesses that the absence of criticism of this mechanism is related to the absence of threshold subsidies for parties participating in the election. The provisions as stated by the author above are also in line with the principle of proportionality which takes into account achievements in elections as is common practice in various countries. This can be seen from the proportion of national subsidies in the total income of each political party in 2014, namely that the Saenuri party's income from national subsidies contributed around USD 36.3 million, or around 37.2% of the total income of USD 97.6 million. On the other hand, the "New Political Alliance for Democracy", the leading opposition party, received almost USD 33.8 million, which was 36.9% of the total income of USD 91.7 million.<sup>73</sup>

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62 Yanuarti, "State Funding to Political Parties: Experience in Selected Parties," 221–22.

63 Heung Soo Min, "Party Founding in South Korea," in *Handbook of Political Party Funding* (Northampton: Edward Elgar Publishing Limited, 2018), 344, <https://doi.org/10.4337/9781785367977>.

64 Yanuarti, "State Funding to Political Parties: Experience in Selected Parties," 221.

65 Yanuarti, 221.; Pasal 25 Undang-Undang Korea Selatan Nomor 14838 tahun 2021 tentang Pendanaan Negara.

66 Yanuarti, 221.; Pasal 25 Undang-Undang Korea Selatan Nomor 14838 tahun 2021 tentang Pendanaan Negara.

67 Yanuarti, 221.; Pasal 25 Undang-Undang Korea Selatan Nomor 14838 tahun 2021 tentang Pendanaan Negara.

68 Pasal 26 dan Pasal 28 ayat (1) Undang-Undang Korea Selatan Nomor 14838 tahun 2021 tentang Pendanaan Negara.

69 Pasal 45 Undang-Undang Korea Selatan Nomor 17885 tahun 2021 tentang Pendanaan Politik.

70 Pasal 37 Undang-Undang Korea Selatan Nomor 17885 tahun 2021 tentang Pendanaan Politik.

71 Pasal 37 Undang-Undang Korea Selatan Nomor 17885 tahun 2021 tentang Pendanaan Politik.

72 Pasal 57 Undang-Undang Korea Selatan Nomor 17885 tahun 2021 tentang Pendanaan Politik.

73 Yanuarti, "State Funding to Political Parties: Experience in Selected Parties," 221–22.

**Second,** Democratic Politics. According to Min, political parties are increasingly dependent on state subsidies because political parties are alienated from their constituents.<sup>74</sup> In Seong's analysis, in order to reduce corruption crimes, money regulations strangle the natural flow of political life in society, thus having a particular impact on party communication with society.<sup>75</sup> According to Min, this happens because entrepreneurs and community groups are unable to voice their collective views in the political process.<sup>76</sup> In this case, various interest groups, civil groups, entrepreneurs, and labor groups cannot voice their opinions and concerns, which in fact provide minimal financial contributions.<sup>77</sup>

**Third,** Corruption Index. Korea has developed far from a country with corrupt political funding to a country with relatively clean and efficient party finances when viewed, for example, from the increase in the corruption perception index since the democratization process.<sup>78</sup> In line with Min, this is related to the elimination of corporate contributions and donations as well as increasing state funding in politics which has resulted in a drastic reduction in corrupt electoral practices.<sup>79</sup> Political parties periodically disclose their funding sources and expenditures in accordance with the Freedom of Official Information Act. According to Min, the improvement in corruption in this country is not just caused by one dimension.<sup>80</sup> This happens because of the strong executive will and systemic improvements not only in supervision and punishment but also in proposing quality enforcement by neutral and independent institutions; anti-corruption agency efforts; and growing public awareness about the need for clean elections.<sup>81</sup>

### 3.1.4 Turkey

#### 3.1.4.1 Political Party Financial Assistances Arrangements in Turkey

Political Party Financial Assistances in Turkey consists of financial assistance and indirect assistance in the form of income tax exemptions. All public funds for political parties are 2/5000 of the annual general budget. This amount is then allocated to political parties in proportion to the votes they received in the last general election.<sup>82</sup> Political parties that receive above 3% of the total valid votes also qualify for Financial Assistances (subsidies threshold), while the parliamentary threshold is 10%.<sup>83</sup> Regarding tax exemptions, in principle, there are no taxes, duties, or fees levied on income obtained from political party sources.<sup>84</sup> On the other hand, in the legislation that the author analyzed, there were no provisions that specifically specified the use of money for certain purposes, for example, affirmative action against women.

Party organs at all levels are required to maintain member lists, decision books, lists of incoming and outgoing letters, income and expenditure books, and equipment books.<sup>85</sup> Member registration is stored by region. Receipt of income on behalf of parties and expenses incurred are recorded in the relevant books sequentially and by specifying documents.<sup>86</sup> All income and expenses of a political party must be recorded with invoices and/or receipts.<sup>87</sup> For all cash donations, political parties must provide a receipt that clearly identifies the identity of the donor or the donor's authorized agent or representative. These documents are attached to the account.<sup>88</sup>

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74 Min, "Party Founding in South Korea," 344.

75 Jungtak Seong, "How to Improve Korea's Political Finance: Focusing on The Possibility of Permitting Corporate and Group Political Contributions and Strengthening Transparency," *Ewha Law Journal* 19, no. 4 (2015): 16.

76 Min, "Party Founding in South Korea," 344.

77 Min, 344.

78 Min, 346.

79 Min, 346.

80 Min, 346.

81 Min, 346.

82 Additional Article I of Turkish Law Number 2820 of 1983 concerning Political Parties

83 Additional Article I of Turkish Law Number 2820 of 1983 concerning Political Parties

84 Article 61 letter j, Turkish Law Number 2820 of 1983 concerning Political Parties.

85 Article 60 of Turkish Law Number 2820 of 1983 concerning Political Parties

86 Article 60 of Turkish Law Number 2820 of 1983 concerning Political Parties

87 Article 60 of Turkish Law Number 2820 of 1983 concerning Political Parties

88 Article 60 of Turkish Law Number 2820 of 1983 concerning Political Parties

The body that oversees the income, expenditure, and acquisitions of political parties in this country is the Constitutional Court.<sup>89</sup> In this case, there is an important note in the dynamics of changes in provisions in Turkey, namely the limitation of “intervention” by the Court in interpreting the scope of political party designation. Financial supervision of political parties is carried out by the Constitutional Court as stated in Article 74 of Law Number 2820 of 1983 concerning Political Parties, it is stated that “The Constitutional Court supervises compliance with the acquisition of property, income, and expenditure of political parties with the Law. However, checking compliance with the law cannot be carried out in a way that narrows down the activities that are considered useful to achieve political parties’ goals or including the appropriateness of these activities. The true nature of expenditure is taken into account in the audit. Formal and procedural deficiencies do not necessitate disapproval of expenditures. Political party leaders are obliged to submit official copies of the final tallies, which have been consolidated with the decision, and the final tallies of provincial organizations, including party headquarters and affiliated districts, to the Constitutional Court and the Office of the Chief Public Prosecutor of the Supreme Court for information, until the end of June (... ) Political parties can make all types of expenditure within the scope of their political activities that they consider necessary to achieve their objectives. Political parties can purchase goods and services and carry out construction work directly or through one of the bargaining methods, including open tenders, closed envelope methods, written or verbal. Political parties authorize their expenditures with invoices, documents that replace invoices, and in cases where these documents are impossible to obtain, provided that they have content to demonstrate the correctness of the expenditure (...).”

Interestingly, Turkey does not have an obligation to publish political party financial reports like the other three countries. Even so, there are still sanctions for violations by political parties. Law Number 2820 of 1983 concerning Political Parties which imposes four types of administrative sanctions: court warning (Article 104); confiscation by the State Treasury or liquidation of assets (Article 76 violates Articles 67, 69, and 77); depriving a political party of state assistance (Article 102) for not providing documents requested by the Office of the Chief Prosecutor of the Republic to the Court of Cassation.

### ***3.1.4.2 Regulatory Implications for Three Aspects***

**First**, Free and Fair Election. According to Gençkaya, existing arrangements build gaps in the electoral system.<sup>90</sup> Parties that have been successful in recent elections are “rewarded” with funds that make it easier for them to maintain their success in the future. However, despite the claims of injustice and inequality raised by small political parties, the Author is in line with the Turkish Constitutional Court and the European Court of Human Rights (ECTHR) which ruled that the criteria determining Financial Assurances for political parties are fair or proportional.<sup>91</sup> In 2008, the Constitutional Court ruled by a majority of six to five that Turkey’s Grand National Assembly had discretionary authority to determine the criteria for allocating public funds to political parties.<sup>92</sup> ECTHR also found that the criteria for Financial Assurances for political parties is “proportional” to the electoral threshold as well as the electoral success (minimum level of support) of the parties.<sup>93</sup> What the author thinks is important to note from this aspect in Turkey is that there is a parliamentary threshold variable which is quite high, namely 10%, so that in empirical practice, violations during non-campaign and campaign periods occur because there is a tendency for the state to benefit parliamentary parties, for example, the ratio of media use as per Gençkaya’s analysis.<sup>94</sup>

**Second**, Democratic Politics. According to Gençkaya, the amount of financial assistance results in minimal public participation in political parties,<sup>95</sup> especially according to the author, it is also caused by the lack of transparency in political party financial reports. According to Ayan Musil, this has the impact that party

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89 Article 74 of Turkish Law Number 2820 of 1983 concerning Political Parties

90 Ömer Faruk Gençkaya, “Financing Political Parties and Electoral Campaigns in Turkey,” *Party Politics in Turkey: A Comparative Perspective*, 2018, 74, <https://doi.org/10.4324/9781315461892.7>

91 Gençkaya, 66.7

92 Gençkaya, 66.7

93 Gençkaya, 66.7

94 Gençkaya, 67.7

95 Gençkaya, 74–75.7

allocations are not used for party units that need affirmation, for example, youth and women, but are instead allocated to the management of organizations in cities and provinces.<sup>96</sup> However, in this aspect, what the author notes is quite significant is the absence of transparency regulations so that the public cannot access political party expenditure and income documents.

*Third*, Corruption Index. According to the author's analysis of the dynamics of the corruption perception index, it seems that the regulation regarding Political Party Financial Assistances is not very significant due to stagnation in the perception of corruption, namely at 36-41. In addition, although the author did not find any literature regarding the relationship between the amount of assistance and corruption, the author noted that there is a large scope for misuse of assistance allocations considering the latest regulations that limit the authority of judicial institutions in interpreting the implementation of assistance allocations. In fact, the Turkish Constitutional Court before the law regime was quite progressive and acted actively in prosecuting financial abuse by political parties.<sup>97</sup> Apart from that, corruption may occur because the latest legal regime simplifies physical evidence of the expenditure they make as the author explained in the previous section.

Based on the analysis of the four countries above, the author is of the view that on paper South Korea is the best example with several notes. This country is the only country that tends to have positive implications for two aspects, namely free and fair elections and corruption index. In the author's analysis, the electoral aspect can be quite ideal because there are no heavy threshold subsidies for parties participating in the election, while there is still a distribution that is in line with the proportional principle in various government regimes. Even so, there is a big note on democratic politics due to the disconnection of political parties' relations with community groups as a result of the large percentage of dependence on political party funding (41%). In this case, the author believes that attention needs to be paid to determining the distribution mechanism and the mechanism for determining the amount, so as not to break the party's relationship with society and not position the party as dependent on the state. In general, South Korea as a best practice, especially regarding the corruption index, of course, cannot be separated from reforms in other sectors, for example, the independence of supervisory institutions and the provision of regular transparency obligations to the public as well as the existence of sanctions provisions.

In the country of Colombia, the author finds it important to note that even though there is an increase in Political Party Financial Assistances and rigid arrangements such as in South Korea, political party problems still occur, mainly due to regulations that impact the independence and credibility of Political Party Financial Assistances monitoring institutions, especially issues regarding recruitment, term of office, capacity. technical commission. With this note, the author considers that this does not negate the author's clear assessment that Colombia in terms of transparency and sanctions regulation has the most ideal provisions because it regulates transparency with the most frequent quantity and the most stringent sanctions. Apart from that, the aspect of free and fair elections in this country is maintained because it is in accordance with the principle of proportionality.

In the case of Brazil, the absence of a high subsidies threshold is an important factor that allows the free and fair election of new political parties. However, the large number of parliamentary parties has encouraged divisions between parties and society and the emergence of parties that have no social roots (democratic politics). Regarding corruption, increasing assistance and a series of rigid mechanisms also do not guarantee improvements in corruption, considering that there are unique factors in the Brazilian context, namely the existence of extreme restrictions on the private sector which actually has implications for the existence of channels for illegal contributions from organized crime.

In Turkey, there are important notes regarding aspects of the corruption index, especially limitations on the Constitutional Court's authority to adjudicate the allocation of subsidies in financial reports by political parties. Apart from that, the transparency aspect also has a significant influence on the country's vulnerability to corruption. In this case, regulations regarding the amount of assistance and other things do not have a significant role because important instruments in enforcement and public control are limited. In the aspect of democratic politics, the author finds that community empowerment is not optimal because there is misuse of allocations by

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96 Pelin Ayan Musil, Sabri Sayari, and Ozhan Demirkol, *Party Politics in Turkey A Comparative Perspective* (New York and London: Routledge, 2018).

97 Gençkaya, "Financing Political Parties and Electoral Campaigns in Turkey," 70–71.7

parties. Apart from that, the lack of transparency in the party and the insignificance of material contributions to the party further sharpen the distance between the people. In the election aspect, the author finds regulatory risks in empirical practice, especially regarding the combination of the size of the parliamentary threshold and the amount of aid, bearing in mind that in empirical practice discrimination has been found by the state against non-parliamentarians due to the cartel relationship between the state and parliamentary political parties.

### **3.2 Possibility of Implementing Best Practices to Resolve Political Party Financial Assistances Problems in Indonesia.**

In this sub-discussion, the big question is whether the best practice mechanisms from the four countries above can be transplanted into Indonesia. If possible, what and how to implement these mechanisms are contextualized with the regulations in Indonesia to resolve political party Financial Assistances problems. To answer that, the author needs to explain the dynamics of political party Financial Assistances arrangements in the Indonesian legal system. In this dynamic, political party Financial Assistances variables will be consistently analyzed *mutatis mutandis* with the analysis in the first problem formulation. This includes i) form of aid, ii) source of aid, iii) amount of aid, iv) characteristics of the party receiving aid, v) mechanism for monitoring or checking use, vi) use of aid, vii) reporting mechanism for use of aid, viii) reporting periodization, ix) supervisory or sanctioning institutions, x) transparency in the use of aid, and xi) sanctions provisions.

The research results show that in the Indonesian legal system, political party Financial Assistances arrangements can be divided into 4 (four) generations.<sup>98</sup> Generational divisions are differentiated based on changes or amendments to political party laws. Initially, in the first generation, political party Financial Assistances arrangements were subject to Law 2/1999 and PP 51/2001. This PP emerged in response to a paradigm that sees political parties as a state asset in order to realize people's sovereignty through representation.<sup>99</sup> In the second generation, regulations are subject to Law 31/2002 and PP 29/2005. Furthermore, in the third generation, political party Financial Assistances arrangements are subject to Law 2/2008, PP 5/2009, and Permendagri 24/2009.

Finally, in the fourth generation, political party Financial Assistances arrangements became quite complex. This cannot be avoided from the fact that Law 2/2011 has accommodated various new paradigms related to strengthening the consolidation of democracy in Indonesia, especially through a number of reforms that lead to strengthening systems and institutions as well as transparency and accountability in political party financial management. In this generation, regulations are subject to Law 2/2011, PP 83/2012, BPK Regulation 2/2015, Permendagri 77/2014, Permendagri 6/2017, PP 1/2018, Permendagri 36/2018, Permendagri 77/2020, and Permendagri 78/2020.

The dynamics of regulatory development in the four generations above can be simplified in the following table.

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98 The author divides this generation based on the content of political party financial assistance which is being regulated for the first time in Law of the Republic of Indonesia Number 2 of 1999 concerning Political Parties which was later replaced by and changed by the new law. The first regulation of the Political Party Law in Indonesia was regulated in Law Number 3 of 1975 concerning Political Parties and Work Groups with implementing regulations in the form of PP 9/1976 and PP 19/1986. However, In these three norms, no material related to financial assistance to political parties or political parties was found the work class itself as regulated in the Political Party Law currently in effect (UU 2/2011).

99 General explanation of Republic of Indonesia Government Regulation Number 51 of 2001 concerning Financial Assistance To Political Parties

**Table 3. Dynamics of Political Party Financial Assistances Arrangements in Indonesia**

<b>Analysis Aspect</b>	<b>Law 2/1999 1st generation</b>	<b>Law 31/2002 2nd generation</b>	<b>Law 2/2008 3rd generation</b>	<b>Law 2/2011 4th generation</b>
<b>Forms of Assistance</b>	Direct and Indirect	Direct and Indirect	Direct and Indirect	Direct and Indirect
<b>Sources of Assistance</b>	APBN/APBD	APBN/APBD	APBN/APBD	APBN/APBD
<b>Amount of Assistance by State</b>	The proportional number of votes is limited by APBN/APBD conditions		The proportional number of votes is calculated by calculating the amount of APBN/APBD financial assistance for the previous fiscal year divided by the number of votes obtained from the DPR/ DPRD elections for political parties that won seats in the previous period	
<b>Characteristics of Aid Recipients</b>	The party that gets votes	Parties that get seats in the DPR, Provincial DPRD, and Regency/City DPRD		
<b>Mechanism for Providing Assistance</b>	Submission to the Minister of Home Affairs and Regional Heads		Completion of Administrative Requirements, Verification, and Submission to the Minister of Home Affairs and Regional Heads	
<b>Use of Assistance</b>	Nothing	Smooth administration or operations of the secretariat	Political education and operations of political party secretariats with attention to gender equality. <sup>100</sup>	
<b>Mechanism for Reporting Use of Assistance</b>	Public Accountant Audit and Reporting to the Supreme Court	Public Accountant Audit and Reporting to the Supreme Court	Reported to the central government after being audited by the BPK	
<b>Periodic and from time to time.<sup>101</sup></b>	Periodic Once a year	Periodic Once a year	Periodic Once a year	
<b>Supervisory and/ or Sanctioning Institution</b>	Supreme Court	KPU, Central Government, and Regional Government	Central Government and Regional Government	

100 In Law of the Republic of Indonesia Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties, State Gazette of the Republic of Indonesia of 2011 Number 3 along with regulations implementation, these two things are further detailed regarding several things. Starting from the necessary political education is a priority (60% minimum funding), deepening the four pillars of nation and state, understanding rights and the obligations of citizens in building political culture and ethics, as well as the regular cadre of political party members tiered and sustainable.

101 In a periodic context, this is done in three ways, namely once a year at the end of December, 15 days before election, and 15 days after the election.

<b>Transparency in the Use of Assistance</b>	Open and audited by public accountants. <sup>102</sup>	Open for public and government information	Open for the public to know
<b>Form of Sanctions</b>	Termination of Political party Financial Assistances and Revocation of the right to participate in elections	Open Reprimand and termination of assistance	Reprimand by the government and termination of aid from the state

Source: Law 2/1999, Law 31/2002, Law 2/2008, and Law 2/2011 and their implementing regulations (Processed by the Author, 202

Based on the dynamics of the arrangements above, the author contains two unique conclusions and notes as follows. First, there are several political party Financial Assistances mechanisms that remain constant and do not change. This includes the form of political party Financial Assistances and sources of assistance in Indonesia which are not experiencing development. The form of assistance is direct in the form of money and indirect in the form of goods that can be valued in money. In addition, there is an obligation for political parties as non-profit institutions not to invest shares/open business entities, until there is a maximum contribution requirement. Apart from that, the amount of political party Financial Assistances grants is always adjusted to the capacity of the APBN/APBD. Second, on the other hand, there are several regulatory aspects of political party Financial Assistances that change dynamically. This covers almost all aspects, except for the two things mentioned previously.

If contextualized with conditions in Indonesia, based on the results of analysis of secondary literature related to the implementation of political party Financial Assistances arrangements, currently there is not much positive contribution to the aspects of free and fair election, democratic politics, and the corruption index for several reasons. First, the current size of political party Financial Assistances still cannot cover the party's operational costs in a year.<sup>103</sup> This is made worse by the findings of Faisal et al that in a number of parties, member fees are no longer effective and sustainable.<sup>104</sup> Second, the lack of implementation of party activities which are not yet oriented as a bridge between the people and the state.<sup>105</sup> This can be seen from the failure to carry out several crucial functions of political parties, such as recruiting citizens to become party members, political education for citizens, and formulating and fighting for alternative public policies. Third, in practice, donors to political parties in Indonesia by countries that are too small and manipulated give rise to state capture legislation corruption.<sup>106</sup> The condition is characterized by the discovery of cases where political parties use positions in the government or DPR to raise funds for the political party's needs.<sup>107</sup>

These three conditions are further exacerbated, for example, according to Mietzner's research, there is a trend of increasingly expensive democratic costs that need to be incurred, such as i) the need for increased media campaigns, opinion polls, and public consultations, ii) increasing the role of entrepreneurs in political parties, iii) to requests for assistance from constituents.<sup>108</sup> Apart from that, something that is quite crucial to review is the lack of transparency in financial reports as mandated by Permendagri 6/2017 in constitutional practices. The Ministry of Home Affairs only releases data sets on the size of political party Financial Assistances for

102 There is no further explanation regarding openness in these statutory regulations

103 Faisal, Bariroh Barid, and Didik Mulyanto, "Pendanaan Partai Politik Di Indonesia: Mencari Pola Pendanaan Ideal Untuk Mencegah Korupsi," *Integritas* 4, no. 1 (2018): 288.

104 Faisal, Barid, and Mulyanto, 288.

105 Faisal, Barid, and Mulyanto, 276.

106 Mietzner, "Dysfunction by Design: Political Finance and Corruption in Indonesia," 601.

107 Mietzner, 601.

108 Marcus Mietzner, "Party Financing in Post-Soeharto Indonesia: Between State Subsidies and Political Corruption," *Contemporary Southeast Asia* 29, no. 2 (2007): 253, <https://doi.org/10.1355/cs29-2b>.



political parties at the central level,<sup>109</sup> even though this is important to answer the problem of indications of corruption as mentioned in Mietzner’s research.

Based on a literature study of conditions occurring in Indonesia, there are various kinds of problems that need to be faced both in the aspects of democratic politics and the corruption index. In particular, the aspect of free and fair elections does not seem to be a concern in Indonesia because according to the Constitutional Court, simplifying political parties is considered a positive thing as strengthening the presidential system.<sup>110</sup> Apart from that, the author considers that the existence of a stable system of converting valid votes into rupiah in the dynamics of Indonesian law shows that there is indeed an original intention from parliament to maintain proportionality based on the achievements of the previous election, without any affirmation of new political parties that have just registered. In practice, according to the author, this provision is not recorded in various literature regarding free and fair elections from various political parties or notes by experts.

Next, the author will present how regulatory problems in Indonesia can adopt best practices in the other four countries. Alan Watson, as quoted by Ibnu Sina, requires that in carrying out a legal transplant, two stages need to be carried out, namely i) ensuring that the law of the existing transplant country does not contradict the law in the country of origin and ii) ensuring that the community is able to accept the law.<sup>111</sup> The author will discuss these things one by one. Judging from the results of the discussion on the first problem formulation, the adoption of best practices from other countries in legal aspects that can be contextualized to Indonesia is as follows:

**Table 4. Contextualization of Best Practice on Problems in Indonesia.**

<b>Problems in Indonesia</b>	<b>Country of Origin Mechanism</b>	<b>Existing Mechanism in Indonesia</b>	<b>Possibility of Existing Law</b>
Minimum Number of Political party Financial Assistances and State Capture Corruption	An increase in assistance of 30-40% of the average amount of party financial expenditure means that the figure of 41% in South Korea is enough to have an impact on the deterioration of democratic politics. Apart from that, there are 4 stages of party allocation according to the number of seats. (South Korea).  As long as it remains in the range below 40% of party expenditure, an increase or decrease in dynamic aid refers to an increase or decrease in state income in order to stimulate party contributions. (Türkiye)	100% is given directly to political parties that fulfill their existence in parliament proportionally based on votes.	Revision of Law 2/2008
Limited allocation for Political party Financial Assistances	Intended for 11 items  (Colombia: 6, South Korea: 8, and Brazil: 5, Turkey: 0)	It is only intended for two things, political education and secretariat operations.	Revision of Law 2/2011

109 Directorate General of Politics and General Government, Ministry of Home Affairs, “Party Financial Assistance Data Politics Based on the Number of Valid Votes for Elections in the DPR at the Central Level,” Kemendagri.go.id, 2023, [https://edatabase.kemendagri.go.id/view\\_data/data/](https://edatabase.kemendagri.go.id/view_data/data/)

110 Constitutional Court Decision Number 55/PUU-XVII/2019 concerning Review of Law Number 7 of 2017 regarding General Elections.

111 Ibnu Sina Chandranegara, “Kompabilitas Penggunaan Metode Omnibus Dalam Pembentukan Undang-Undang,” *Jurnal Hukum Ius Quia Iustum* 27, no. 2 (2020): 241–63, <https://doi.org/10.20885/iustum.vol27.iss2.art2>.

Transparency and Supervision of Political party Financial Assistances Use Reports	Carried out every quarter or four months to the public and there are 4 types of sanctions (Colombia)	Audited by the BPK, then submitted to the Pempus/ Local Government. Transparency in the regulatory aspect is carried out openly so that the public can find out without any sanctions so that in practice it is not implemented.	Revision of Law 2/2008 and improvements in practice
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*Source: Processed by the Author, 2023*

Based on the table above, it can be concluded that best practice mechanisms from other countries can be implemented in Indonesia on the condition of revising the Political Party Law. As for the condition of society, the author does not consider that there are certain sociological realities or economic implications that prevent new regulatory alternatives. In various literatures, the context of acceptance by the community is actually possible as long as increasing Political Party Financial Assistances is also accompanied by a commitment to political party democratization and financial transparency. Furthermore, the author also includes additional notes regarding the allocation of political party operational funds which can be reviewed through the following table.

**Table 5. Best Practice Analysis in Aspects of Political party Financial Assistances Allocations**

<b>Aspects of Political party Financial Assistances Allocations</b>	<b>Indonesia</b>	<b>Brazil</b>	<b>South Korea*</b>	<b>Colombia</b>	<b>Turkey**</b>
<b>Secretariat Operations</b>	V	V	V	V	X
<b>Inclusiveness of Women, Youth, and Ethnic Minorities in the Political Process</b>	Partial	V	V	V	X
<b>Operation of Study Center/ Foundation</b>	X	X	X	V	X
<b>Political Courses and Education</b>	V	V	V	V	X
<b>Dissemination of Political Programs and Proposals</b>	X	X	X	v	X
<b>Internal Democracy</b>	X	X	V	X	X
<b>Public Utility Development Costs</b>	X	X	V	X	X

<b>Policy Development Costs</b>	X	V	V	X	X
<b>Public Relations Costs</b>	X	X	V	X	X
<b>General Election Costs</b>	X	V	V	X	X
<b>Political Party Advertisements</b>	X	X	X	X	X

*\* Best Practice, \*\* Worst Practice; Diolah Penulis, 2023.*

Based on the table above, the author is of the opinion that the more numerous and detailed the designations, the better, with the assumption that political parties will be limited from abusing the designations. In this case, referring to the reality in Turkey as discussed previously, the lack of rigid regulations has implications for the weak authority of judicial institutions in taking action against violations. Thus, all forms of designation from a combination of these four countries can be used in Indonesia. Even so, the DPR needs to review these technical matters in accordance with empirical needs in Indonesia.

Responding to this condition, the author assumes that these transplants can be implemented by the community as long as the following four aspects have been fulfilled. First, there is an increase in political will to continue to increase the percentage of political party Financial Assistancess. Specifically in this aspect, it has actually been seen in the trend of plans to increase political party Financial Assistancess regulated by legal dynamics in Indonesia from only Rp. 1,000.00 becomes Rp. 8,500.00. Second, the paradigm of political parties is improving. This aspect needs to be addressed with indicators such as the increasing voter turnout for political parties, the lack of corruption cases committed by political parties, and the contribution of good relations between political parties and their people in carrying out state development. Political parties need to make themselves trustworthy to the public in accordance with the spirit of the formation of Law 2/2008 and Law 2/2011.<sup>112</sup> Third, institutional improvement. This aspect needs to be reflected in the party's efforts to establish internal monitoring procedures, internal audits, as well as political party Financial Assistancess reporting standards in accordance with statutory regulations. Fourth, political party compliance. This aspect needs to be contextualized in making reports on time, receiving sanctions if they violate them, and making political party Financial Assistancess reports transparent after being audited by the BPK to the public

#### 4. CONCLUSION

First, the implications of regulating variations in Political Party Financial Assistancess models in Colombia, Brazil, South Korea, and Turkey referring to aspects of free and fair elections, democratic politics, and the corruption index show several differences in implications between countries. The four countries regulate all political ban variables that the author tracks (except Turkey which does not regulate assistance allocation), but have different implications. In general, South Korea is best practice in the aspect of free and fair elections as well as the corruption index aspect with several notes, especially those that still have an impact on the democratic politics aspect. In Colombia, there are political party problems which have an impact on the independence and credibility of political party supervisory institutions. However, setting transparency and sanctions is the most ideal because it regulates transparency with the most frequent quantity and the most stringent sanctions. In the case of Brazil, the absence of a high subsidies threshold is an important factor that allows free and fair election of new political parties with consequences for aspects of democratic politics. In the matter of corruption, extreme restrictions on the private sector actually have implications for the existence of channels for illegal contributions from organized crime. In Turkey, there are important notes regarding aspects of the corruption index, especially regarding the authority of the Constitutional Court and the lack of transparency.

<sup>112</sup> General Explanation of Law of the Republic of Indonesia Number 2 of 2008 concerning Political Parties.

In the aspect of democratic politics and free and fair elections, there is abuse of allocations by parties, and the large parliamentary threshold and assistance encourage discrimination against non-parliamentary parties. Second, it is possible to transplant alternative political party Financial Assistances laws to resolve the problems of political parties in Indonesia by taking into account three findings. First, there are several political party Financial Assistances mechanisms that remain constant and do not change, including the form of political party Financial Assistances and sources of assistance in Indonesia that have not experienced development, while other aspects are dynamic. Second, the problems with political parties in Indonesia are only in two aspects, namely democratic politics and the corruption index, including i) the minimal size of political party Financial Assistances which causes state capture corruption, ii) limited use of political party Financial Assistances, and iii) limited regulation of transparency in monitoring reports on the use of political party Financial Assistances. Thus, arrangements need to be made for i) increasing assistance referring to arrangements in South Korea and Turkey, ii) regulating allocations for political parties from the four countries, and iii) financial reporting every four months followed by threats of sanctions referring to Colombia. Third, transplantation can occur as long as there is political will, improved political party paradigms, institutional improvements, and political party compliance.

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